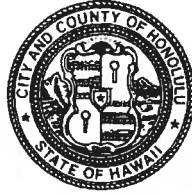


DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

KIRK CALDWELL
MAYOR



NELSON H. KOYANAGI, JR.
DIRECTOR

GARY T. KUROKAWA
DEPUTY DIRECTOR

February 13, 2014

The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Martin and Councilmembers:

SUBJECT: Resolution Authorizing the Defense and Indemnification
of the Members of the Deferred Compensation Committee

One of the benefits of being an employee of the City and County of Honolulu ("City") is the option to participate in the City's Public Employee Deferred Compensation Plan ("Plan"). Recently, the Deferred Compensation Plan Committee ("Committee") amended its Plan and Bylaws to have elected members serve on the Committee in addition to the existing provision for ex-officio members. Explicitly under the Plan and Bylaws, all of these Committee members are fiduciaries. However, the Committee is not a City agency (i.e., it is not a City board or commission), and the elected Committee members are not serving within the course and scope of City employment.

Because of this fiduciary responsibility and to be able to ensure that the Committee continues to attract and maintain qualified persons who are willing to serve as Committee members, including the elected members and the ex-officio members, the adoption of the attached proposed resolution is very important as it will indemnify, defend and hold harmless all members, including respective designees or alternates, of the Committee from any liability or loss arising out of service on the Committee, as more fully described in the attached resolution. The provision for indemnification, defense and hold harmless for all Committee members by adoption of this resolution will also ensure that the City's indemnification, defense and hold harmless will be uniformly provided to the Committee members, irrespective of whether the member is elected or ex-officio.

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The Honorable Ernest Y. Martin
Chair and Presiding Officer
and Members
February 13, 2014
Page 2

Your favorable consideration will be appreciated. If you have any questions concerning this matter, please call me at 768-3901.

Sincerely,



Nelson H. Koyanagi, Jr.
Director

Enclosure

APPROVED:



Ember Lee Shinn
Managing Director

cc: The City and County of Honolulu Public Employer
Deferred Compensation Plan Committee



RESOLUTION

AUTHORIZING THE DEFENSE AND INDEMNIFICATION OF THE MEMBERS OF THE DEFERRED COMPENSATION COMMITTEE

WHEREAS, the Deferred Compensation Plan of the City and County of Honolulu ("Plan") is a valuable employee benefit program, created pursuant to the Mayor's authority as employer, designed to encourage people to pursue careers with the City and County of Honolulu ("City") and to provide eligible City employees with a convenient and tax-favored means to save for retirement on a regular and long-term basis; and

WHEREAS, the Deferred Compensation Committee (the "Committee") serves as the Plan's administrator and has fiduciary responsibilities to the Plan's participants and beneficiaries; and

WHEREAS, the City Council adopted Resolution 12-212 FD1 on September 12, 2012, which recognized the importance of a broader representation of active and retired employees as members of the Committee and urged that the Plan be amended to expand the membership of the Committee by adding three elected members, comprising two active City employees and one retired City employee; and

WHEREAS, the Plan was amended on December 5, 2012, in accordance with Resolution 12-212 FD1, and the three elected members were each elected to terms of four years, commencing July 1, 2013; and

WHEREAS, the duties and responsibilities of the City positions held by the elected Committee members who are active City employees do not include service on the Committee; and

WHEREAS, the elected Committee member who is a retired City employee is no longer in the employment of the City; and

WHEREAS, pursuant to the Plan, the Managing Director, the Corporation Counsel, the Director of Budget and Fiscal Services, and the Director of Human Resources, their alternates or designees, serve as ex-officio voting members of the Committee; and



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

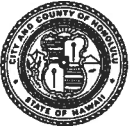
No. _____

RESOLUTION

WHEREAS, to ensure that the Committee continues to attract and maintain qualified persons who are willing to serve as Committee members, including the elected members and the ex-officio members, the Council determines it is in the best interests of the City to indemnify, defend and hold harmless all members of the Committee from any liability or loss described below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that:

The City hereby agrees to indemnify, defend and hold harmless all past, present, and future members of the Committee (the "Committee Members"), including the ex-officio members, their respective designees and alternates, and the elected members, from any liability or loss (including, without limitation, all reasonable costs, expenses and attorneys' fees) arising out of or resulting from judgments or claims (including, without limitation, litigation, actions, legal proceedings or demands) (collectively "Claim") against any or all them, arising out of or in connection with their actions, activities and/or duties as Committee Members and plan administrator for the Plan, without regard as to whether the Claim is brought against them in their individual or official capacities, or both; provided, however, that the City's agreement to indemnify, defend, and hold the Committee Members harmless shall not apply if any such Committee Member was acting with willful misconduct or fraud.



RESOLUTION

BE IT FINALLY RESOLVED by the Council that the Clerk be and is hereby directed to transmit copies of this resolution to the Department of Budget and Fiscal Services, which shall cause a copy of this resolution to be delivered to each member of the Committee, as each such member is appointed or elected to the Committee from time to time.

INTRODUCED BY:

Councilmembers

DATE OF INTRODUCTION:

Honolulu, Hawaii